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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No. 8:18-cv-00994-JLS-DFM

Date: December 07, 2018

Title: Georgia Babb et al. v. California Teachers Association et al.

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Present: **Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE**

Terry Guerrero

Deputy Clerk

N/A

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER GRANTING STATE  
DEFENDANTS’ MOTION TO DISMISS (Doc. 53)**

Before the Court is a Motion to Dismiss for lack of subject matter jurisdiction brought by the members of the California Public Employment Relations Board (“the State Defendants”).<sup>1</sup> (Mot., Doc. 53.) Plaintiffs<sup>2</sup> opposed (Opp., Doc. 57) and the State Defendants replied (Reply, Doc. 70). The Court finds this matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. R. 7-15. Accordingly, the hearing set for December 14, 2018, at 10:30 a.m., is VACATED. For the reasons given below, the Court GRANTS the State Defendants’ Motion.

In *Janus v. AFSCME Council 31*, 138 S. Ct. 2448 (2018), the Supreme Court held that no form of payment to a union, including agency fees, can be deducted or attempted to be collected from an employee without the employee’s affirmative consent. *Id.* at 2486. Prior to the issuance of *Janus*, the State Defendants enforced California Government Code section 3546, which authorizes the compulsory collection of agency fees. (SAC ¶ 13.)

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<sup>1</sup> The members are Erik Banks, Priscilla Winslow, Erich Shiners, and Arthur A. Krantz, and they have been sued in their official capacity. (See Second Amended Complaint (“SAC”) ¶ 13, Doc. 51.)

<sup>2</sup> Plaintiffs are current or former public-school teachers Georgia Babb, John J. Frangiamore Jr., William Happ, Aaron Holbrook, Michelle Pecanic-Lee, David Schmus, and Abram van der Fluit. (SAC at 3.)

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In this case, Plaintiffs seek only prospective injunctive and declaratory relief against the State Defendants.<sup>3</sup> (*Id.* ¶¶ 33–35.) Specifically, the Plaintiffs seek a declaration that they cannot be forced to pay agency fees and that California Government Code 3456 is unconstitutional. (*Id.* ¶¶ 35 (c), (e).) Further, Plaintiffs seek to enjoin the State Defendants from enforcing any California law that requires the payment of agency fees. (*Id.* ¶ 35 (i).) The State Defendants seek dismissal on the grounds that the claims asserted against them are moot because “there is no reasonable expectation after *Janus* that the State Defendants would enforce any law requiring the payment of agency fees without consent.” (Mem. at 5.) They have submitted a declaration attesting to their commitment to no longer enforce California Government Code section 3456 and to fully comply with *Janus*. (*See* Torres Decl., Ex. 1 to Chang Decl., Doc. 71.)

Shortly after the State Defendants filed their Motion on September 18, 2018, the Court granted a motion to dismiss for mootness in a related case based on indistinguishable facts. *See Yohn v. California Teachers Assoc.*, No. 8:17-cv-00202, Doc. 198 (C.D. Cal. Sept. 28, 2018). Plaintiffs’ Opposition here advances identical arguments to those made by the plaintiffs in *Yohn* and argues that the Court “incorrectly decided” *Yohn*. (Opp. at 13–15.) However, the Court sees no reason to depart from the reasoning underlying that decision.

Accordingly, for the same reasons stated in this Court’s Order in *Yohn*, the State Defendants’ Motion to Dismiss is GRANTED.

Initials of Preparer: gg

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<sup>3</sup> Additional relief is sought against the California Teachers Association, United Teachers of Los Angeles, and National Education Association. (SAC ¶¶ 10–12; 35 (a)–(i).)